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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JENNIFER XUJIA WANG, and
RUBEN a/k/a RUOPIAN CHEN,

Defendants,

and

ZHILING FENG,

Relief Defendant.

Civil Action No.

07 CV 3715 (AKH)

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF
PLAINTIFF SECURITIES AND EXCHANGE COMMISSION
TO EXTEND TEMPORARY RESTRAINING ORDER, AND
ORDER FREEZING ASSETS AND GRANTING OTHER RELIEF
AND TO RESCHEDULE PRELIMINARY INJUNCTION HEARING**

Plaintiff Securities and Exchange Commission (“Commission”) submits this memorandum of law in support of its motion asking the Court to extend the Temporary Restraining Order, and Order Freezing Assets and Granting Other Relief (“Temporary

Restraining Order”) entered by the Court *ex parte* on Thursday, May 10, 2007, and to reschedule the preliminary injunction hearing (“Preliminary Injunction Hearing”) currently scheduled for May 16, 2007 at 2:15 p.m.

Background

In its Temporary Restraining Order, the Court initially scheduled a Preliminary Injunction Hearing to be held at 2:30 p.m. on June 4, 2007 to permit the defendants, Jennifer Xujia Wang and Ruben a/k/ Ruopian Chen (collectively, “Defendants”), and relief defendant, Zhileng Feng (“Relief Defendant”) to show cause why the Court should not enter a preliminary injunction enjoining Defendants from future securities law violations; and continue the other relief entered against Defendants and Relief Defendant in the Temporary Restraining Order.

On May 11, 2007, counsel for the Defendants filed a motion asking the Court to schedule a hearing within two days in order to consider Defendants’ request to have the Temporary Restraining Order dissolved or modified. Defendants’ motion was based on the fact that the Temporary Restraining Order contained no provision for living expenses and attorney’s fees. In addition, Defendants maintained that the Temporary Restraining Order was inconsistent with the provisions of Federal Rule of Civil Procedure 65(b), which, among other things, provides that a temporary restraining order granted without notice “shall . . . expire by its terms, within such time after entry, not to exceed ten days, as the Court fixes.” Fed. R. Civ. P. 65(b). At the same time, Defendants also served the Commission with their First Requests for Documents.

On the same day, May 11, 2007, the Defendants and the Commission entered into an agreement to immediately release from the asset freeze provisions of the Temporary

Restraining Order a total of \$53,000, to be used by Defendants for attorney's fees and certain other necessary and reasonable living expenses. At the same time, the Defendants and the Commission agreed in principle to a future modification of the Temporary Restraining Order to permit additional funds to be paid to Defendants on a monthly basis for certain other reasonable and necessary living expenses, pending provision by Defendants to the Commission of evidence satisfactory to the Commission demonstrating those expenses. On May 11, 2007, the Court, in accordance with the stipulation of the Defendants and the Commission, signed and filed an Order in which it immediately released to Defendants from the asset freeze a total of \$53,000.

On May 14, 2007, the Court also entered an order that rescheduled the Preliminary Injunction Hearing to May 16, 2007, at 2:15 p.m., but, in the alternative, invited the Commission to file a motion for enlargement of the Temporary Restraining Order, and a postponement of the Preliminary Injunction Hearing.

Argument

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, the Court may "for good cause shown" extend the time fixed for the Preliminary Injunction Hearing for an additional ten day period beyond the original ten day period permitted in the rule. In this case, the original ten day period permitted by Rule 65(b) would have run through May 24, 2007.¹ Thus, Rule 65(b) permits the Temporary Restraining Order, for good cause shown, to be extended through Friday, June 8, 2007.

In this case, the primary justification for Defendants' motion for an expedited hearing no longer pertains because the Commission and the Defendants have already

¹ Federal Rule of Civil Procedure 6(a) provides that, in computing the ten day period, the day of the entry of the Temporary Restraining Order is not counted, nor are Saturdays, Sundays, or legal holidays. Fed. R. Civ. P. 6(a).

reached an agreement regarding the provision of funds for Defendants' attorney's fees and reasonable and necessary living expenses. Thus, the Defendants will suffer no prejudice if the terms of the Temporary Restraining Order are extended.

Moreover, extending the Temporary Restraining Order and rescheduling the Preliminary Injunction Hearing will permit the parties properly to prepare for that hearing, and will also allow the Commission adequate time to respond to Defendants' discovery requests. In addition, Relief Defendant, Zhiling Feng is a citizen of the People's Republic of China, residing in Beijing. Although the Commission has attempted to provide notice of this action to her in accordance with the provisions of the Temporary Restraining Order, no confirmation has yet been received that she has received that notice. Rescheduling the Preliminary Injunction Hearing will provide additional time for the Commission to confirm that the Relief Defendant has received notice of this action and for the Relief Defendant to arrange to appear at the hearing or to have a representative appear on her behalf.

Conclusion

For the foregoing reasons, the Commission respectfully requests that the Court grant its request to extend the Temporary Restraining Order and reschedule the Preliminary Injunction Hearing currently scheduled for May 16, 2007 at 2:15 p.m.

Respectfully submitted,

s/

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